

# FINAL BILL REPORT

## 2SSB 5602

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Synopsis as Enacted

**Brief Description:** Eliminating barriers to reproductive health care for all.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Randall, Wilson, C., Nguyen, Das, Saldaña, Cleveland, Takko, Kuderer, Hasegawa, Rolfes, Van De Wege, Keiser, Hunt, Wellman, Billig, Dhingra, Conway, Pedersen, Frockt, Salomon, Palumbo, Darneille, McCoy, Liias, Mullet and Carlyle).

**Senate Committee on Health & Long Term Care**  
**Senate Committee on Ways & Means**  
**House Committee on Health Care & Wellness**  
**House Committee on Appropriations**

**Background:** Federal Benefits Eligibility. Under federal law, aliens who are not qualified aliens are not eligible for most federal public benefits, including Medicaid. Qualified aliens may be eligible for federal public benefits if they meet certain exemptions, including refugee status, certain permanent residency statuses, veteran and active duty military status, disabled aliens who have resided in the United States since 1996, and certain American Indians.

Take Charge, Family Planning Waiver Program. The Health Care Authority (HCA) operates the Take Charge Program (Take Charge) to provide men and women coverage for family planning services, which includes U.S. Food and Drug Administration (FDA) approved contraception, screening for sexually transmitted diseases (STDs), well-woman care, and family planning education. Anyone, except undocumented immigrants and non-qualified aliens, who is uninsured, not eligible for Medicaid or insured and seeking confidential family planning services, and is at or below 260 percent of the federal poverty level is eligible for Take Charge.

Insurance Coverage for Reproductive Care. The ACA requires non-grandfathered, individual and small group market health plans to offer the essential health benefits. The essential health benefits are established by the states using a supplemented benchmark plan. Prescription drugs, including all FDA-approved contraceptive methods and prescription-based sterilization procedures for women, are included in Washington's essential health benefits package.

Rules adopted by the Office of the Insurance Commissioner (OIC) require a state-regulated health plan to cover prescription contraceptives if it provides generally comprehensive

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

coverage of prescription drugs. This requirement applies to all state-regulated health plans, regardless of whether they are subject to the essential health benefits requirement.

In 2018 the Legislature required all health plans issued or renewed on or after January 1, 2019, to provide coverage for all contraceptive drugs, devices, and other products approved by the FDA. The coverage may not require copays, deductibles, or other forms of cost sharing. The Legislature also directed the Governor's Interagency Coordinating Council on Health Disparities to do a literature review on disparities in access to reproductive health care. The report included recommendations for improving health care access and reducing inequities based on socioeconomic, race, sexual orientation, gender identity, ethnicity, and geographic factors.

Human Rights Commission. The Washington Law Against Discrimination (WLAD) provides a person has the right to be free from discrimination based on race, creed, color, national origin, sex, marital or family status, age, disability, or the use of a trained dog guide. This right applies to public accommodation, employment, real estate transactions, credit and insurance transactions, and commerce. The Washington State Human Rights Commission (HRC) is responsible, in part, for administering and enforcing WLAD.

HRC investigates complaints alleging unfair practices. If there is reasonable cause to believe an unfair practice is occurring, or has occurred, HRC must act to eliminate the unfair practice through conference, conciliation, and persuasion. If no agreement is reached, HRC requests the appointment of an administrative law judge (ALJ). An ALJ is empowered to award damages, require the wrongful act cease and desist, and to order any other affirmative action to effectuate the purposes of the law.

**Summary:** The provision of reproductive health care services by the HCA, managed care plans (MCOs), and providers that deliver or administer services purchased or contracted for by HCA, must not discriminate in the delivery of a service based on the covered person's gender identity or expression.

Beginning in 2021 health plans and student health plans must provide coverage for:

- condoms, regardless of the gender or sexual orientation of the covered person, and regardless of whether they are to be used for contraception or specifically to prevent a sexually transmitted disease;
- screening following a sexual assault;
- well-person preventive visits;
- medically necessary services and prescription medications for the treatment of physical, mental, sexual, and reproductive health care needs that arise from a sexual assault; and
- prenatal vitamins for pregnant persons and breast pumps for covered persons expecting the birth or adoption of a child.

Health plans and student health plans are prohibited from requiring any cost-sharing for the required covered services, drugs, devices, and products, except treatment for physical, mental, sexual, and reproductive health following a sexual assault, and prenatal vitamins for pregnant persons and breast pumps for covered persons expecting the birth or adoption of a

child may include cost sharing. Health plans and student health plans may require cost-sharing if the health plan is a qualifying health plan for a health savings account.

Health plans are permitted to require a prescription to trigger coverage of prenatal vitamins for pregnant persons and breast pumps for covered persons expecting the birth or adoption of a child.

HCA, MCOs, health plans, and student health plans may not use automatic initial denials of coverage for reproductive health services ordinarily available to individuals of one gender, based on the fact the individual's gender assigned at birth, gender identity, or gender otherwise recorded in one or more government-issued documents, is different from the one to which such health services are ordinarily available. Prohibited denials are considered prohibited discrimination under WLAD.

Hospitals must submit policies to the Department of Health (DOH) related to access to care related to admissions, nondiscrimination, and reproductive health care. DOH is directed to post the policies on its website and develop a form for hospitals to use when submitting policies. The form must provide the public with information about which reproductive healthcare services are and are not available at the hospital.

Health carriers offering a qualified health plan are required to bill enrollees and collect payment through a single invoice that includes all benefits and services covered by the qualified health plan. Segregation plans of health carriers must include a certification that the health carrier's billing and payment processes meet the OIC's requirements for the segregation of premiums.

By January 1, 2020, the Bree Collaborative must identify, define, and endorse guidelines for the provision of high quality sexual reproductive health services, including specific clinical recommendations to improve sexual and reproductive health care for people of color, immigrants and refugees, victims and survivors of violence, and people with disabilities. By December 15, 2020, the Bree Collaborative must also provide a status report to the legislative committees with jurisdiction over health care and to the Governor.

DOH must consult with other state agencies and develop recommendations for increasing awareness about financial support that is available for pre-exposure and post-exposure prophylaxis, and must report its recommendations to the appropriate committees of the Legislature by December 1, 2019.

**Votes on Final Passage:**

Senate	28	17	
House	59	39	(House amended)
Senate			(Senate refused to concur)
House	58	40	(House receded/amended)
Senate	29	20	(Senate concurred)

**Effective:** July 29, 2019  
May 13, 2019 (Section 5)  
January 1, 2020 (Section 2)  
January 1, 2021 (Section 3)